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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,881	10/19/2001	Tuomo Syvanne	BER-024	8294
26717	7590	03/29/2006		
RONALD CRAIG FISH, A LAW CORPORATION PO BOX 820 LOS GATOS, CA 95032			EXAMINER ISMAIL, SHAWKI SAIF	
			ART UNIT	PAPER NUMBER

2155

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/032,881

Applicant(s)

SYVANNE, TUOMO

Examiner

Shawki S. Ismail

Art Unit

2155

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 27 February 2006. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: NONE.

Claim(s) objected to: NONE.

Claim(s) rejected: 1-27.

Claim(s) withdrawn from consideration: NONE.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.


SALEH NAJJAR
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues in substance that:

(A) Oki fails to teach a network cluster having at least two nodes and each node handling separate sets of data packets.

Response: The applicant is reminded that the claims must be given their broadest reasonable interpretation. The claim language fails to clearly recite that the data packets at a specific node is different than that of another node, the claims merely recite that the nodes handles separate data packet and does not teach that the different packets are in fact different types of packets

Oki teaches a clustered computer system with multiple nodes. As packets arrive at interface node 103 from clients 121-123, a service is selected for the packet based on the destination address in the packet. Next, a server instance is selected for the packet based upon the source address of the packet as well as the destination address of the packet. No two nodes will be selected to handle the same packet and therefore each node handles separate data packet. There is no limitation in the claims that state that only certain data packets are handled by certain nodes and not by other nodes; therefore Oki meets the scope of the claimed limitation.

(B) Oki fails to teach maintaining in a first node a first, node-specific data structure comprising entries representing state information needed for handling sets of data packets handled in the first node

Response: Oki teaches that each node may contain an HA PDT server that house data relating to the specific node that the HA PDT server is located on (refer to Fig. 3, col. 7, lines 20-42).

(C) Oki fails to teach maintaining in the first node, in addition to the node-specific data structure, a second, common data structure.

Response: Oki teaches that each node may contain an HA PDT server that house data relating to the specific node that the HA PDT server is located on and additionally it contains data on other nodes in the clustered computing system. The claimed limitation fails to clearly recite whether first data structure and second data structure are two different data structures and totally separate from each other. Therefore the data structure of Oki that contains information on all the nodes meets the scope of the claimed limitation (common data structure) (refer to Fig. 3, col. 7, lines 20-42).

(D) Oki fails to teach dynamically changing distribution of at least one set of data packet from said at least one other node to said first node of a network element cluster and that the re-distributed data packet are transferred out of the common data structure to the node-specific data structure

Response: Oki teaches that if a server fails then another server will take over processing and a check-pointing process ensures that the configuration data will be present in the new server that was before available in the old server in order for the new server to process the packet. Information related to each node will be updated with the new packets that the node will have to handle in order to ensure that proper load balancing is possible (col. 7, lines 34-55).

With regards to the arguments relating to the 103 rejection of claim 1, Examiner has fully considered the arguments and has found them to be persuasive and therefore, the 103 rejection is hereby withdrawn.